

MONTANA LEGISLATIVE HISTORY

Chapter 204 19 91

Bill H 105 S _____ Original bill & history C

H. Committee on Education & Cultural Resources S. Committee on Education & Cultural Resources

Hearing Date(s) Jan 18 ☒ C

Hearing Date(s) Mar 08 ☒ C

Jan 28 ☒ C

Mar 11 ☒ C

Jan 30 ☒ C

_____ ☐ C

_____ ☐ C

_____ ☐ C

Date Out Jan 31 ☒ C

Mar 11 ☒ C

Did this bill originate in an interim committee? ☐ Yes ☐ No

Committee _____

Report _____

	TRANSMITTED TO SENATE		
3/28	FIRST READING		
3/28	REFERRED TO JUDICIARY		
4/09	HEARING		
4/12	COMMITTEE REPORT—BILL CONCURRED AS AMENDED		
4/13	2ND READING CONCURRED AS AMENDED	48	0
4/15	3RD READING CONCURRED	48	0
	RETURNED TO HOUSE WITH AMENDMENTS		
4/17	2ND READING AMENDMENTS CONCURRED	95	2
4/18	3RD READING AMENDMENTS CONCURRED	92	6
4/20	SIGNED BY SPEAKER		
4/20	SIGNED BY PRESIDENT		
4/20	TRANSMITTED TO GOVERNOR		
4/25	SIGNED BY GOVERNOR		
	CHAPTER NUMBER 636		
	EFFECTIVE DATE: 04/25/91 - SECTION 6, 8		
	EFFECTIVE DATE: 07/01/93 - SECTION 1-5, 7		

HB 104 INTRODUCED BY J. JOHNSON, ET AL.

ALLOW REDUCTION IN THE LENGTH OF A SCHOOL
DAY FOR CERTAIN CIRCUMSTANCES

1/05	INTRODUCED		
1/05	REFERRED TO EDUCATION & CULTURAL RESOURCES		
1/07	FIRST READING		
1/18	HEARING		
1/22	COMMITTEE REPORT—BILL PASSED		
1/23	2ND READING PASSED	81	18
1/25	3RD READING PASSED	79	19
	TRANSMITTED TO SENATE		
1/25	REFERRED TO EDUCATION & CULTURAL RESOURCES		
1/26	FIRST READING		
2/04	HEARING		
2/11	COMMITTEE REPORT-BILL NOT CONCURRED		
2/11	ADVERSE COMMITTEE REPORT ADOPTED	46	2
2/12	MOTION FAILED TO RECONSIDER ADOPTION OF ADVERSE COMMITTEE REPORT	20	26

HB 105 INTRODUCED BY L. NELSON

PROVIDE FOR TRANSFER OF TENURE TEACHER
BETWEEN TEACHING AND ADMINISTRATION

1/05	INTRODUCED		
1/05	REFERRED TO EDUCATION & CULTURAL RESOURCES		
1/07	FIRST READING		
1/18	HEARING		
1/28	COMMITTEE REPORT—BILL PASSED AS AMENDED		
1/30	RREFERRED TO EDUCATION & CULTURAL RESOURCES		
1/31	COMMITTEE REPORT—BILL PASSED AS AMENDED		
2/02	2ND READING PASSED AS AMENDED	82	15
2/05	3RD READING PASSED	87	11
	TRANSMITTED TO SENATE		
2/06	FIRST READING		
2/06	REFERRED TO EDUCATION & CULTURAL RESOURCES		
3/08	HEARING		
3/12	COMMITTEE REPORT—BILL CONCURRED		
3/13	2ND READING CONCURRED	47	2
3/14	3RD READING CONCURRED	43	5
	RETURNED TO HOUSE		
3/22	SIGNED BY SPEAKER		
3/22	SIGNED BY PRESIDENT		
3/23	TRANSMITTED TO GOVERNOR		

HOUSE FINAL STATUS

HB 109

3/27 SIGNED BY GOVERNOR
CHAPTER NUMBER 204

EFFECTIVE DATE: 10/01/91

HB 106 INTRODUCED BY HARRINGTON

ALLOW LOCAL OPTION GAMBLING BY HOME RULE COUNTIES

1/05 INTRODUCED
1/05 FISCAL NOTE REQUESTED
1/05 REFERRED TO LOCAL GOVERNMENT
1/07 FIRST READING
1/12 FISCAL NOTE RECEIVED
1/15 FISCAL NOTE PRINTED
2/14 HEARING
2/19 TABLED IN COMMITTEE

HB 107 INTRODUCED BY J. JOHNSON, ET AL.

REVISE SAFETY INSTRUCTION REQUIREMENTS FOR ISSUANCE
OF A BOW & ARROW LICENSE

1/05	INTRODUCED		
1/05	REFERRED TO FISH & GAME		
1/07	FIRST READING		
1/17	HEARING		
1/18	COMMITTEE REPORT—BILL PASSED AS AMENDED		
1/23	REREFERRED TO FISH & GAME		
2/02	COMMITTEE REPORT—BILL PASSED AS AMENDED		
2/05	2ND READING PASSED	71	28
2/07	3RD READING PASSED	82	18

	TRANSMITTED TO SENATE		
2/08	FIRST READING		
2/08	REFERRED TO FISH & GAME		
3/12	HEARING		
3/15	COMMITTEE REPORT—BILL CONCURRED		
3/16	2ND READING CONCURRED	29	14
3/18	3RD READING CONCURRED	40	9

RETURNED TO HOUSE
3/23 SIGNED BY SPEAKER
3/25 SIGNED BY PRESIDENT
3/25 TRANSMITTED TO GOVERNOR
3/29 SIGNED BY GOVERNOR
CHAPTER NUMBER 217

EFFECTIVE DATE: 3/01/92

HB 108 INTRODUCED BY J. RICE

REVISING SCIENCE AND TECHNOLOGY BOARD ORGANIZATION,
FUNDING, AND PROGRAMS
BY REQUEST OF GOVERNOR

1/05 INTRODUCED
1/05 REFERRED TO BUSINESS & ECONOMIC DEVELOPMENT
1/07 FIRST READING
1/10 BILL WITHDRAWN

HB 109 INTRODUCED BY BROOKE

PROVIDE VICTIM AND WITNESS ASSISTANCE IN JUVENILE FELONY CASES

1/05	INTRODUCED		
1/05	FISCAL NOTE REQUESTED		
1/05	REFERRED TO JUDICIARY		
1/07	FIRST READING		
1/11	FISCAL NOTE RECEIVED		
1/14	FISCAL NOTE PRINTED		
1/14	HEARING		
1/15	COMMITTEE REPORT—BILL PASSED		
1/17	2ND READING PASSED	97	0

Proponents' Testimony:

Eric Feaver, Montana Education Association, (MEA), said this legislation would allow folks early dismissal to allow for daylight travel. Several school districts have allowed teachers early leave for travel already and HB 104 would allow this practice to be continued in a more legalized fashion.

Dan Martin, Superintendent, Glendive, urged support for HB 104.

Kay McKenna, Montana Association of County School Superintendents, (MACSS), said this is a responsible approach to a travel and safety problem.

Jay Rasmussen, Dagmar stated support for HB 104.

Bruce Moerer, Montana School Boards Association, (MSBA), stated support for HB 104.

Terry Minow, Montana Federation of Teachers, (MFT), stated support for HB 104.

Opponents' Testimony: None

Questions From Committee Members: None

Closing by Sponsor:

REP. JOHNSON thanked the committee and said this bill is worthy of a DO PASS recommendation.

HEARING ON HB 105

Presentation and Opening Statement by Sponsor:

REPRESENTATIVE LINDA NELSON, House District 19, Medicine Lake, said HB 105 provides for the transfer of tenured teachers between teaching and administration. Many schools are facing tough financial times due to declining enrollment and decreasing caps. School boards have to make hard choices to make the best use of tax dollars, which might involve eliminating an administrative position. This tenured administrative person would have two choices: (1) look for another administrative position; or (2) take a teaching job within the system. The teaching position could either be open within the system or this person could "bump" a non-tenured teacher.

Current law states a tenured teacher will receive the same salary from year to year and will not have to take a cut in pay. The tenured administrative person is considered a tenured teacher so the board finds it has to pay perhaps \$20,000 more per year for the administrator than the teacher he is replacing. This is not judicious use of taxpayer money and not fair to other teachers on staff who may be doing the same work for far less pay.

HB 105 allows the administrative person to take the teaching position from all of his years of tenure and fit into the salary schedule of his school system as though he had been teaching all along. This approach may not be kind from an administrative standpoint but it makes good sense. Other teachers will not be resentful, taxpayers will continue to support the levy and the administrative person will still have a salaried position.

In the future those going into an administrative position might just as well know from the beginning they will be paid as an administrator, but if they go into a teaching position they will be paid a teacher's salary.

Proponents' Testimony:

Bruce Moerer, Montana School Boards Association, (MSBA), said current Supreme Court interpretation of the tenure law requires a school district to continue paying an administrator the salary received as an administrator if that person goes into a classroom teaching position. The administrator must be offered the next open administrative position for which he/she qualifies. Mr. Moerer offered written testimony and proposed amendment to HB 105. EXHIBITS 1,2,3

REP. WILBUR SPRING, House District 77, Belgrade, stated support for HB 105.

Katherine Kelker, Chair, Board of Trustees, Billings, stated support for HB 105.

Steve Henry, Montana Education Association, (MEA), stated support for HB 105.

REP. BERV KIMBERLEY, House District 90, Billings, said HB 105 is not vindictive toward administrators and said he would not support HB 105 without a grandfather clause amendment.

A person should get paid for the job he/she does and in the school business compensation is received for any additional responsibility. There is a stipend, such as in coaching. When that responsibility is gone the teacher accepts the loss of the stipend. Consequently, if an administrator is teaching, he/she should receive the salary of a classroom teacher.

There also needs to be a seniority list where the last to be hired is the first to go.

David Spence, teacher, Ronan, stated support for HB 105.

Jim Sterns, teacher, Helena, stated support for HB 105.

Larry Williams, Superintendent, Great Falls, said HB 105 is a flexible option for a Board of Trustees and to some administrators. In situations where declining enrollment or

financial problems require the reduction of administrative staff, HB 105 would provide a viable option. This is an issue of comparable pay for comparable work as a basic thesis of work. To pay a regularly contracted teacher less wages than a former administrator who is now a teacher is disparaging and suggestive of some form of discrimination. To pay higher wages to a former administrator now assigned to a teaching position is statutorily inconsistent with collective bargaining statutes.

Dennis Carlson, teacher, Huntley Project Schools, Worden, stated support for HB 105.

Wanda Grinde, teacher, Canyon Creek School, Yellowstone County, stated support for HB 105.

Jerry Ruckavina, Pres., Great Falls Education Association, said HB 105 offers districts the option of flexibility. Teachers and administrators professionally desire that flexibility in softening the effects of a potential riff.

Trisha McMorris, teacher, Glasgow, stated support for HB 105.

Hallie Olson, Vaughn Elementary, stated support for HB 105.

Joy Rasmussen, Dagmar, said HB 105 is economically necessary.

Athlene Stokke, Vaughn, stated support for HB 105.

Kathy Carlson, teacher, Billings, stated support for HB 105. If not HB 105, perhaps all teacher salaries could be raised to administrative salary levels.

Kyle Boyce, Pres., Missoula County High School Education Association, Missoula, stated support for HB 105.

Noreen Burris, teacher, Billings, stated support for HB 105.

Scott C. McCulloch, Seeley, stated support for HB 105

Opponents' Testimony:

Jesse Long, School Administrators of Montana, (SAM), presented written testimony and proposed amendments. EXHIBITS 4,5,6

Dennis Kraft, Pres., School Administrators of Montana, Missoula, said the statute is in place for economic protection under the tenure law for teachers. This is a promise to folks currently serving in those positions. When they entered into current contracts, that was a provision in the contract. Please consider the amendments.

Terry Minow, Montana Federation of Teachers, (MFT), said the bill affects tenure rights adversely. Reduction of salary is not allowed under the tenure statute. If HB 105 passes when will the

next bill come along to do the same thing to teacher tenure rights? Look at this legislation with a great deal of caution.

Darrell Rud, Principal, Rimrock School, Billings, said it is exciting to work with people aspiring for the principalship. This legislation is discouraging to people who seek to change their professional direction and aspire to be principals. Top quality professionals will not continue to seek out these positions when they stand to lose their seniority rights. Who will fill hundreds of administrative openings if this legislation is implemented?

Keith Meyer, Principal and Superintendent, Kessler School, Helena, said there is definitely a new need for administrators due to the accreditation standards for 1992. The Kessler School District will be hiring an elementary principal because of enrollment. This bill poses a recruitment problem. Being a former teacher and now an administrator he has real concerns with the message being sent to those aspiring to become administrators.

Pep Jewell, Pres-Elect, School Administrators of Montana, presented written testimony. EXHIBIT 7

REP. ERVIN DAVIS, House District 53, Charlo, stated he has been a superintendent for a combined school district, a high school principal, teacher and coach, as well as an elementary principal and teacher. He said there are very real problems with HB 105 which need to be addressed during Executive Action.

Questions From Committee Members:

REP. GERVAIS asked Bruce Moerer what would be considered "financial problems" in relation to Federal programs being phased out. Mr. Moerer said if there is a decrease of funds from a Federal program that could be termed "financial problems". There is never a complete black and white pattern to follow in a budget situation. Trustees set a budget for salary, maintenance, reserve and utilities. This bill will allow flexibility for trustees elected by the taxpayers to determine the budget. If administrators feel abused in that process they are entitled to appeal to the county superintendent.

REP. BENEDICT asked Bruce Moerer if other states have similar policies and have they been challenged in court. Mr. Moerer said there is a great deal of variety throughout the states on tenure, and administrators all across the board. Anything can be challenged in court but this statute should hold.

CHAIRMAN SCHYE asked Bruce Moerer how many mill levies were voted down last year across Montana. Mr. Moerer said he was aware of only one voted down in Baker.

REP. BENEDICT asked Jesse Long to expand on his comments about

the difference a quality administrator makes in a school district. Mr. Long said HB 105 doesn't disagree with the quality of an administrators work as an administrator but allows the board to put an administrator back in the classroom as a teacher. There is currently a shortage of administrators and if their security is jeopardized there will soon be fewer numbers of quality people available for administrative positions.

REP. MCCULLOCH asked Steve Henry if HB 105 passes will it weaken the tenure laws. Mr. Henry said it will not.

Closing by Sponsor:

REP. NELSON said school boards do not function to provide financial security. The bottom line is accountability to the taxpayers and providing the best use of tax dollars to educate students. Salary cuts are not unique in Montana and taxpayers have the right to judicious use of their tax money. This bill is not a fun bill but to defeat it is to do nothing. The time has come to do something about this situation.

EXECUTIVE ACTION ON HB 27

Motion: REP. WALLIN moved HB 27 DO PASS.

Discussion: REP. MCCARTHY asked what class district is Townsend. CHAIRMAN SCHYE said Townsend is a Class II District and would not have been included in this legislation if it was only concerned with Class III.

REP. CLARK said he talked with Kay McKenna and she sees no problem with amending to include Class II so that Townsend would be included.

REP. SIMPKINS said the law states you can only have a substitute teacher for thirty days at which time they have to be under contract. Andrea Merrill said after thirty days the district must offer benefits, such as retirement benefits the other teachers get. That is usually the incentive to relieve them from the substitute position for a time.

REP. DAILY said this bill will probably cause many problems and could potentially bring about abuse of the Nepotism Law. His district hires a substitute on a permanent basis during legislative sessions.

REP. CLARK asked Kay McKenna to speak to the size of the districts in each class. Ms. McKenna said the 6500 in a Class I District is the size of the entire district, not the population of the school.

Motion/Vote: REP. CLARK moved to adopt amendments limiting to Class II and III Districts. Motion FAILED 7 TO 12. EXHIBIT 8

HOUSE OF REPRESENTATIVES

EDUCATION AND CULTURAL RESOURCES COMMITTEE

ROLL CALL

DATE 1-18-91

NAME	PRESENT	ABSENT	EXCUSED
REP. TED SCHYE, CHAIRMAN	✓		
REP. ERVIN DAVIS, VICE-CHAIRMAN	✓		
REP. STEVE BENEDICT	✓		
REP. ERNEST BERGSAGEL	✓		
REP. ROBERT CLARK	✓		
REP. VICKI COCCHIARELLA	✓		
REP. FRED "FRITZ" DAILY	✓		
REP. ALVIN ELLIS, JR.	✓		
REP. GARY FELAND	✓		
REP. GARY FORRESTER	✓		
REP. FLOYD "BOB" GERVAIS	✓		
REP. H.S. "SONNY" HANSON	✓		
REP. DAN HARRINGTON	✓		
REP. TOM KILPATRICK	✓		
REP. BEA MCCARTHY	✓		
REP. SCOTT MCCULLOCH	✓		
REP. RICHARD SIMPKINS	✓		
REP. BARRY "SPOOK" STANG	✓		
REP. NORM WALLIN	✓		
REP. DIANA WYATT	✓		

EXHIBIT #1
DATE 1-18-91
HB 105

HB 105

FACT SHEET

Prepared for The House Education Committee

January 18, 1991

A. Problem:

Current law requires a school district to continue to pay a former administrator who is transferred to the classroom for economic reasons at the higher administrative salary level, give them continuing administrative increases, and give them the next administrative position for which they are qualified.

B. Reason: Definition of Tenure:

1. Administrators (except Superintendents) gain tenure just like classroom teachers by the offer and acceptance of their fourth consecutive contract (prior years can be either teaching or administrative positions).
§ 20-4-203, MCA.
2. Tenure prohibits salary reductions.
3. A tenured teacher (or administrator) can bump a nontenured teacher if his/her position is eliminated and he/she is endorsed to teach the subject being taught by the nontenured teacher.

C. HB 105 Solution:

Allows a school district to transfer an administrator to a classroom teaching position at a classroom teacher's salary if economic conditions of the district require a reduction in administrative staff.

D. HB 105 does:

1. provide due process protection for the administrator.
2. give administrators credit on the teacher's salary schedule for all years of service with the district.
3. provide the administrator a preference for the next comparable administrative opening for which he/she is qualified.

E. HB 105 does not:

1. allow an administrator to be assigned to the classroom instead of being terminated if the district is not satisfied with the administrator's performance.
2. cause the administrator to lose any seniority with the district.
 - a. Seniority is based on years of service and is determined solely by the collective bargaining agreement (CBA). It is normally used to determine the order of layoff of tenured teachers in the union.
 - b. Some CBA's allow former administrators (now teachers) to accrue seniority for years of service as an administrator, some do not.
 - c. An administrator can be assigned to the classroom under current law, and if the CBA does not allow seniority to be accrued for administrative duties, the former administrator might be the first teacher laid off. This can happen now!
 - d. HB 105 does not cause, or affect, this possible result -- it merely affects the salary the former administrator would receive for teaching.

Bruce Moerer
General Counsel



"Administration to the classroom"

Legal Corner

Although it is permissible to assign administrators to a classroom teaching position, it may not be advisable under the tenure laws and the Montana Supreme Court's interpretation of those laws.

What the Supreme Court has said is that, if a district determines that it must RIF (reduction in force) an administrative position, a tenured administrator with proper endorsements or qualifications, can bump a nontenured teacher. Massey v. Argenbright, et al, 683 P.2d 1332, 3 St.Rptr of Ed Law 142 (1984). The Court has further stated that when this happens, the teacher (former administrator) is entitled to be paid the administrative salary, plus future increases granted to administrators in the district, and is entitled to the next administrative opening if he or she is qualified. Sorlie v. School Dist. No. 2, 667 P.2d 400, 2 St.Rptr of Ed. Law 145 (1983).

In analyzing the situation, one must understand that administrators (except the superintendent) fall under the definition of "teacher."

"Teacher" means any person, except a district superintendent, who holds a valid Montana teacher certificate that has been issued by the superintendent of public instruction under the provisions of this title and the policies adopted by the board of public education and who is employed by the district as a member of its instructional, supervisory, or administrative staff. This definition of a teacher shall also include

any person for whom an emergency authorization of employment of such person has been issued under the provisions of 20-4-111, MCA." Section 20-1-101(18), MCA.

Therefore, administrators can obtain tenure under the teacher tenure law, just like a classroom teacher can.

Section 20-4-203, MCA provides that: "(1) Whenever a teacher has been elected by the offer and acceptance of a contract for the fourth consecutive year of employment by a district in a position requiring teacher certification except as a district superintendent or specialist, the teacher is considered to be reelected from year to year thereafter as a tenure teacher at the same salary and in the same or a comparable position of employment as that provided by the last executed contract with the teacher unless the trustees resolve by majority vote of their membership to terminate the services of the teacher in accordance with the provisions of 20-4-204.

(2) The tenure of a teacher with a district may not be impaired upon termination of services of the teacher if the following conditions exist:

(a) the tenure teacher is terminated because the financial condition of the district requires a reduction in the number of teachers employed; and

(b) continued employment rights are provided for in a collectively bargained contract of the district."

In fact, there is no difference between

tenure for administrators and teachers. There is also no difference among administrators, be they building principals or central office administrators. Upon the signing of their fourth consecutive contract with the district, "teachers" obtain tenure, regardless of whether they were classroom teachers or administrators before or after obtaining tenure. Teachers retain tenure until their employment is terminated, unless they are recalled pursuant to the terms of a collective bargaining agreement.

Let's look at the numbers. . .

What does this do to a school district that needs to RIF an administrative position because of a loss of enrollment or financial problems? Assume the tenured administrator makes \$40,000. Assume the administrator bumps a nontenured teacher who makes \$16,000. The salary savings realized by the district is only \$16,000 since the administrator must still be paid \$40,000. In addition, morale problems become serious when one teacher makes substantially more than another for doing the same job. Finally, the former administrator is also paid in violation of the salary schedule of the collective bargaining agreement. With all of these problems facing the district, it may not be worth only \$16,000 to eliminate the administrative position.

A second practical effect is evident when a district goes to fill an administrative opening. A district has more incentive to hire from outside the district to avoid putting a tenured teacher in that position. The district then has three nontenure years to evaluate the person's job performance as an administrator. Additionally, in the event of an RIF during those first three years, the person can be assigned to the classroom at a classroom teacher's salary because they have not yet obtained tenure.

The Montana School Boards Association
(continued on page 6)

Administration to the classroom

(continued from page 4)

tion is preparing legislation to allow a tenured administrator to be assigned to the classroom at a classroom teacher's salary. This will avoid the problems discussed above. If we assume the administrator will make \$26,000 at the correct place on the salary schedule, the district would save \$30,000 instead of \$16,000. Other classroom teachers would then be more receptive to the situation since the pay would be equitable and the salary would not be in conflict with the collective bargaining agreement. This change in the law would give districts a more viable option in administrative assignments.

Obviously, administrators are opposed to this (they take a cut in pay), but one needs to carefully evaluate their stated objections. One fear they have is that the law will be circumvented and poor administrators will be assigned to the classroom instead of

terminated for cause. They say that somehow they will lose their due process rights to appeal the school board's decision. This cannot happen, because such an assignment would be appealed to the county superintendent as a school controversy under Section 20-3-201, MCA, and a hearing would be held. If a district should attempt to circumvent the law, they would be caught by the appeal process.

Another fear is that under the proposed law, administrators who are put back in the classroom will lose their seniority under the collective bargaining contract, and will be the first teachers laid off in an RIF. That may happen, but the proposed law does not cause this. This happens now. Right now an administrator can be assigned to the classroom. Right now some teacher collective bargaining agreements require tenured teachers with the least seniority to be laid

off first. Some of these agreements do not allow seniority for years of service as an administrator. Therefore, under the current law, an administrator may be the first tenured teacher laid off. This is a fact of life now, and would continue to be a fact of life if the proposed law is enacted by the legislature.

Even though legislative decisions are public policy decisions, they must be based on a correct understanding of the law. School trustees are responsible for running the school district in a fiscally sound manner. The present law decreases the options available to trustees in cases where administrative positions need to be reduced. The legislature must decide, as a matter of public policy, how many options are available to school trustees in these tight economic times.

EXHIBIT #3
DATE 1-18-91
HB 105

PROPOSED AMENDMENT TO
HOUSE BILL 105 White Copy

For the House Education Committee
Proposed by Bruce W. Moerer
Montana School Boards Association

January 18, 1991

Page 2, line 11

Following: "as"

Strike: "or more than"



School Administrators of Montana

515 North Sanders
Helena, MT 59601-4597
(406) 442-2510

EXHIBIT #4

DATE 1-18-91

HB 105

Jan. 18, 1991

To: Ted Schye, Chairman
House Education & Cultural Resources Committee

From: Jesse W. Long, Executive Director *JWL*

Re: HB 105 - Provide for transfer of tenure teacher between
teaching and administration.

School Administrators of Montana passed a resolution during the October Convention that is in opposition to HB 105.

Effective Schools research has demonstrated over and over that an effective principal is the prime factor in successful schools. In fact I want to quote from an editorial written this month,

"In most school districts, the success that will be experienced, will, more often than not, be because of a quality administrator. Much of the national research confirms that these key individuals - the administrators - make all the difference."

That quote is from the MSBA Bulletin for January 1991. Another quote out of the same editorial,

"School Board members need to talk about how they might encourage individuals with administrative skills to obtain the necessary training and credentials for future jobs."

MSBA and many school board members are speaking out of both sides of their mouths and are not providing encouragement or reducing stress on their middle managers.

It is interesting that during the Great Falls teachers strike in 1989, principals were asked by the Great Falls Board to be on duty in the early morning and literally manned the front line for the school board. Now school boards are attacking the very little security that principals have, by offering HB 105.

It is also interesting that the Billings Education Association teachers union are promoting the passage of this legislation. It is obvious they are in it for the money.

HB 105 is unnecessary. If school boards would fully accept the principals as a part of the management team and allow principals to participate in negotiating the master contract for the school district, adequate means for transfer can be developed to the satisfaction of all parties concerned.

If you must pass this bill, please accept the following attached amendments. The amendments make some minimum word changes.

I would ask that you give HB 105 a do not pass.

Robert Anderson
Executive Director



School administrator shortage?

My View

Between the winter and summer months of 1988, fifty chief school administrators in Montana bid adieu to their school districts and looked for greener pastures. In the same period, in 1990, another forty-five superintendents also departed their school districts. In other words, nearly half of all school superintendents vacated their jobs this past two years, some reluctantly, but most on their own volition.

School districts looking for qualified applicants that once saw large numbers from which to choose, now are looking at a much smaller pool. School districts that desired a person with experience from within Montana found even fewer quality applicants. Trustees that are looking for stability within their school system are finding that many applicants have endured the rigors of headmaster in their former school district only a few years. Many school boards are beginning to question applicants who jump from school to school on a regular basis.

Not only do we see a growing problem finding school superintendents, but also the number of elementary and secondary principals seem to be in a state of decline as well. In talking with Darrell Rud, past president of the School Administrators of Montana and currently an elementary principal in Billings, I found that nationally, the National Association of Elementary School Principals is predicting that one-third to one-half of all elementary principals will be retiring within three to five years. The concern is great enough here in Montana that Principal Rud and his colleagues have begun an Aspiring Principals program to encourage new principals to join their ranks.

Rud makes some important points on why fewer and fewer educators are wanting to become administrators. Some reasons are specific to principals, such as security. Many principals who gain tenure or a high level of compensation with one district find it nearly impossible to transfer to another district without a loss of both. The retirement system makes the situation even more critical if the administrator wants to transfer from one state to another; most states, including Montana, only allow a person to purchase up to five years retirement.

Rud makes a good case that the system

currently makes for "disincentives" for administrators to move from large to small school districts and in and out of state.

There are a variety of villains when it comes to looking for reasons why fewer quality administrators are available. Jesse Long, SAM executive director, believes that low administrative salaries in Montana, as well as increasing demands, are discouraging factors for potential administrators. He and Rud both state that the salary difference between teachers and administrators is not very great, considering the extra time and responsibility administrators take on with their jobs. Many teachers find life much easier, given the pay and grief that comes with an administrative position.

Both also note that Montana's twenty-five year retirement plan for teachers and administrators will cause shortages in the nineties.

So what is the answer?

School districts, whether large or small, need to plan now for what their administrative needs will be for the next 10 years. School board members need to talk about how they might encourage individuals with administrative skills to obtain the necessary training and credentials for future jobs. Requirements for administrators have increased and are not easy to meet, and will most likely require an investment from the school district.

Obviously, school districts will need to consider higher salaries to attract and maintain high quality personnel. But higher salaries alone will not be enough to overcome some of the difficulties of administration, including teacher shortages and fear of litigation. Nearly every year that I have attended the dinner hosted by the Montana Association of School Administrators for retiring administrators, I have heard those individuals speak of their stresses, the greatest of which concern labor problems and litigation.



"I want YOU!"

EXHIBIT # 5

I believe districts will have to help the administrators with other professional assistance. Many districts, both large and small, have learned that this assistance is critical, not only for the board's peace of mind, but also for the mental health of their administrator as well.

In most school districts, the success that will be experienced will, more often than not, be because of a quality administrator. Much of the national education research confirms that these *key* individuals — the administrators — make all the difference. However, it will be up to the unsung heroes — the board members — to find and keep the best administrators they can, and as always, luck is the smallest part of the equation — anticipation and planning is where the game is won.

EXHIBIT #6
DATE 1-18-91
HB 105

AMENDMENTS TO HB 105

1. Amend the Title, line 6
Strike: "AND"
Insert: following MCA - "AND APPLICABILITY DATE"
2. Page 3, line 15
Strike: "are arbitrary or capricious."
Insert: "was made with good cause."
3. Page 3, line 23
Strike: "were arbitrary or capricious."
Insert: "was made with good cause."
4. Page 4, INSERT: Following line 10
"NEW SECTION. Section 4. Applicability -
[This Act] does not apply to a person who was employed in an
administrative position prior to [the effective date
of this act]."

THE SCHOOL ADMINISTRATORS OF MONTANA (THE UMBRELLA ORGANIZATION OF ADMINISTRATORS) OPPOSES THE PASSAGE OF HOUSE BILL 105 FOR THE FOLLOWING REASONS:

*A prediction of retirement of 50 per cent of the current administrators in the next nine years will lead to a shortage of administrators.

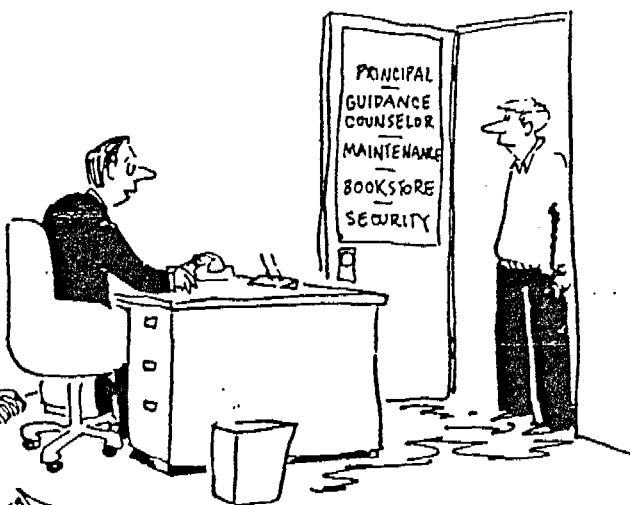
*Lack of seniority rights for administrators in most collective bargaining agreements will lead to principal desire for protection of a union or unwillingness to move.

*Small schools may suffer with administrative cuts due to the 1992 standards for 1 FTE for 250-500 students. This could lead to administrative co-ops similar to the current special ed co-ops. Consolidation may result due to budgets and compliance with the new standards.

*Teachers, custodians, and clerical staff will have economic tenure-administrators will be the only group in the education setting who do not.

*Some districts see this as a way to remove incompetent administrators without due process. If the issue is competence, the evaluation process must be used.

*Public policy for an insignificant number is unnecessary.



*Teacher/administrator salaries currently differ significantly in length of contract rather than daily wage. The question of placement on the salary schedule will lead to contract negotiations at the time of hiring or an unwillingness of administrators to move to small and mid-size districts.

"How can I help you?"

VISITORS' REGISTER

EDUCATION & CULTURAL RESOURCES COMMITTEEBILL NO. HB 105DATE 18 JANUARY 1991SPONSOR REP LINDA NELSON

NAME (please print)	RESIDENCE	SUPPORT	OPPOSE
Harry D. Erickson	Belgrade		✓
Jason L. Long	S. A. M.		✓
Marilyn Ryan	Miss		
Acklene Stathe	Vaughn	✓	
Katharine A. Kelker	Billings	✓	
Negia McMorris	Glasgow	✓	
Shun Henry	Billings	✓	
Wanda Grinde	Billings	✓	
Jan Riekhoff	Belgrade	✓	
Allan W. Eve	Miles City	✓	
Karen Vraa	Forsyth	✓	
David Spence	Ronan	✓	
John Stratton	Laurel	✓	
Bob Dickerson	Gt Falls	✓	
Dennis Carlson	Huntley Project	✓	
Scott McIlhara	Big	✓	
Kathy Carlson	Billings	✓	
Hallie Olson	Vaughn	✓	
Darrell Rud	Billings		✓

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR WITNESS STATEMENT FORM.

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

page 1

VISITORS' REGISTER

EDUCATION

COMMITTEE

BILL NO. HB105DATE 18 Jan 91SPONSOR Rep Linda Nelson

NAME (please print)	RESIDENCE	SUPPORT	OPPOSE
PEP JEWELL	HELENA - 8AM		✓
Bruce W. Myers	MSMA	X	
Aileen Burtis	Billings	✓	
Patricia J. Jandt	Whitefish	X	
Shannon McAuliffe	Billings	X	
Rita Schmitt	Great Falls	X	
Kyle Boyce MCHSEA	Missoula	X	
Deb Wenger	Cut Bank	X	
Tom Downey	Billings	X	
Derry Ritzman	Great Falls	X	
Tammy Lacey	"	X	
Roy McRinn	MASS		✓
Wilbur Springs	Deer Lodge	X	
Torin Merrill	MT		✓
Alvin Koff	School Admin of MT		X
Lee D. Sullivan	GF Public Schools	X	
Rita Schmitt	Great Falls	X	
Nate Link	Bill -	X	
Kathy Dunn	Great Falls	X	

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR WITNESS STATEMENT FORM.

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Page 2

EXECUTIVE ACTION ON 105

Motion: REP. MCCULLOCH moved HB 105 DO PASS.

Discussion: REP. SIMPKINS said there is a great possibility a teacher would teach for ten years, go into a principalship, and return to teaching due to a school closing, thereby losing all ten years of teaching seniority. Losing ten years of teaching seniority is a big deal.

REP. MCCULLOCH said this bill does not cause any loss of seniority with the district and provides due process by administrative preference for the next opening for which they are qualified. This allows the district to transfer an administrator to the classroom during a severe financial crisis in the district. Currently administrators have super immunity from that policy. This would make it fair and affect all people in the school district.

REP. ELLIS agreed with REP. MCCULLOCH citing lines 10-14 on section 2, page 2.

Motion/Vote: REP. HANSON offered an amendment on page 2, line 22 under the definition of reduction of administrative staff to ensure there was mutual agreement to return to a teaching role. REP. HANSON moved to amend HB 105. Motion FAILED 8 to 12. EXHIBIT 17

REP. DAILY offered amendments proposed by the School Administrators of Montana. EXHIBIT 18 The main thrust of the amendments is to grandfather people who are currently working as administrators in Montana. The reason being, these people took these jobs based on the premise of guaranteed salary. It is not right to cut someone's salary when that person took the job thinking the salary was solid.

REP. MCCULLOCH said, as a reminder, there is no grandfather clause for teachers.

REP. DAILY said this is very true with the teachers in many areas of the state.

Motion/Vote: REP. DAILY moved to adopt amendments. Motion CARRIED 16 to 4. EXHIBIT 19

Motion: REP. DAILY moved HB 105 DO PASS AS AMENDED and withdrew the motion at the request of REP. DAVIS.

Motion/Vote: REP. DAVIS made a substitute motion that HB 105 Be TABLED Motion FAILED 8 to 12. EXHIBIT 20

Motion/Vote: REP. HARRINGTON moved HB 105 DO PASS AS AMENDED.

VISITORS' REGISTER

EDUCATION & CULTURAL RESOURCES COMMITTEEBILL NO. HB 105DATE 18 JANUARY 1991SPONSOR REP LINDA NELSON

NAME (please print)	RESIDENCE	SUPPORT	OPPOSE
Kathleen Trewithick	Thompson Falls	X	
Paula Nelson	Thompson Falls	X	
Jacki Lamb Marvin	Ugla	X	

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR WITNESS STATEMENT FORM.

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

HOUSE OF REPRESENTATIVES

EDUCATION AND CULTURAL RESOURCES COMMITTEE

ROLL CALL

DATE January 25, 1991

NAME	PRESENT	ABSENT	EXCUSED
REP. TED SCHYE, CHAIRMAN	✓		
REP. ERVIN DAVIS, VICE-CHAIRMAN	✓		
REP. STEVE BENEDICT	✓		
REP. ERNEST BERGSAGEL	✓		
REP. ROBERT CLARK	✓		
REP. VICKI COCCHIARELLA	✓		
REP. FRED "FRITZ" DAILY	✓		
REP. ALVIN ELLIS, JR.	✓		
REP. GARY FELAND	✓		
REP. GARY FORRESTER	✓		
REP. FLOYD "BOB" GERVAIS	✓		
REP. H.S. "SONNY" HANSON	✓		
REP. DAN HARRINGTON	✓		
REP. TOM KILPATRICK	✓		
REP. BEA MCCARTHY	✓		
REP. SCOTT MCCULLOCH	✓		
REP. RICHARD SIMPKINS	✓		
REP. BARRY "SPOOK" STANG	✓		
REP. NORM WALLIN	✓		
REP. DIANA WYATT	✓		

HOUSE STANDING COMMITTEE REPORT

January 28, 1991

Page 1 of 1

Mr. Speaker: We, the committee on Education and Cultural Resources report that House Bill 105 (first reading copy -- white) do pass as amended .

Signed: _____
Ted Schye, Chairman

And, that such amendments read:

1. Title, line 6.

Strike: "AND"

Following: "MCA"

Insert: "; AND PROVIDING AN APPLICABILITY DATE"

2. Page 3, line 15.

Strike: "are arbitrary or capricious"

Insert: "were based on good cause"

3. Page 3, line 23.

Strike: "arbitrary or capricious"

Insert: "based on good cause"

4. Page 4, line 11.

Insert: " NEW SECTION. Section 4. Applicability. [This act] does not apply to a person who was employed in an administrative position before October 1, 1991."

EXHIBIT #17
DATE 1-25-91
HB 105

HOUSE OF REPRESENTATIVES

EDUCATION AND CULTURAL RESOURCES COMMITTEE

ROLL CALL VOTE

DATE 1-25-91 BILL NO. 105 NUMBER

MOTION: Amendment offered by Rep
Thurson (page 2, line 22) add "by
mutual agreement." Motion failed
8 aye, 12 no

NAME	AYE	NO
REP. TED SCHYE, CHAIRMAN		✓
REP. ERVIN DAVIS, VICE-CHAIRMAN		✓
REP. STEVE BENEDICT	✓	
REP. ERNEST BERGSAGEL	✓	
REP. ROBERT CLARK	✓	
REP. VICKI COCCHIARELLA		✓
REP. FRED "FRITZ" DAILY		✓
REP. ALVIN ELLIS, JR.	✓	
REP. GARY FELAND	✓	
REP. GARY FORRESTER		✓
REP. FLOYD "BOB" GERVAIS		✓
REP. H.S. "SONNY" HANSON	✓	
REP. DAN HARRINGTON		✓
REP. TOM KILPATRICK		✓
REP. BEA MCCARTHY		✓
REP. SCOTT MCCULLOCH		✓
REP. RICHARD SIMPKINS	✓	
REP. BARRY "SPOOK" STANG		✓
REP. NORM WALLIN	✓	
REP. DIANA WYATT		✓
TOTAL	8	12

EXHIBIT # 18
DATE 1-25-91
HB 105

Amendments to HB Bill No. 105
1st Reading Copy

Requested by House Education Committee

Prepared by Andrea Merrill
January 26, 1991

1. Title, line 6.

Strike: "AND"

Following: "MCA"

Insert: "; AND PROVIDING AN APPLICABILITY DATE"

2. Page 3, line 15.

Strike: "are arbitrary or capricious"

Insert: "were based on good cause"

3. Page 3, line 23.

Strike: "arbitrary or capricious"

Insert: "based on good cause"

4. Page 4, line 11.

Insert: " NEW SECTION. Section 4. Applicability. [This act]
does not apply to a person who was employed in an
administrative position before October 1, 1991."

EXHIBIT #19
DATE 1-25-91
HB 105

HOUSE OF REPRESENTATIVES

EDUCATION AND CULTURAL RESOURCES COMMITTEE

ROLL CALL VOTE

DATE 1-25-91 BILL NO. 105 NUMBER

MOTION: Amendments by Rep. Daily
Motion Carried (Exhibit 18)
16 aye, 4 no

NAME	AYE	NO
REP. TED SCHYE, CHAIRMAN	✓	
REP. ERVIN DAVIS, VICE-CHAIRMAN	✓	
REP. STEVE BENEDICT	✓	
REP. ERNEST BERGSAGEL	✓	
REP. ROBERT CLARK		✓
REP. VICKI COCCHIARELLA		✓
REP. FRED "FRITZ" DAILY	✓	
REP. ALVIN ELLIS, JR.	✓	
REP. GARY FELAND		✓
REP. GARY FORRESTER	✓	
REP. FLOYD "BOB" GERVAIS	✓	
REP. H.S. "SONNY" HANSON	✓	
REP. DAN HARRINGTON	✓	
REP. TOM KILPATRICK	✓	
REP. BEA MCCARTHY	✓	
REP. SCOTT MCCULLOCH	✓	
REP. RICHARD SIMPKINS	✓	
REP. BARRY "SPOOK" STANG	✓	
REP. NORM WALLIN		✓
REP. DIANA WYATT	✓	
TOTAL	16	4

EXHIBIT #20
DATE 1-25-91
HB 105

HOUSE OF REPRESENTATIVES

EDUCATION AND CULTURAL RESOURCES COMMITTEE

ROLL CALL VOTE

DATE 1-25-91 BILL NO. 105 NUMBER

MOTION: Motion by Rep. Davis to TABLE
HB 105 Motion failed 8 aye, 12 no.

NAME	AYE	NO
REP. TED SCHYE, CHAIRMAN	✓	
REP. ERVIN DAVIS, VICE-CHAIRMAN	✓	
REP. STEVE BENEDICT		✓
REP. ERNEST BERGSAGEL	✓	
REP. ROBERT CLARK		✓
REP. VICKI COCCHIARELLA		✓
REP. FRED "FRITZ" DAILY	✓	
REP. ALVIN ELLIS, JR.		✓
REP. GARY FELAND		✓
REP. GARY FORRESTER		✓
REP. FLOYD "BOB" GERVAIS	✓	
REP. H.S. "SONNY" HANSON		✓
REP. DAN HARRINGTON	✓	
REP. TOM KILPATRICK		✓
REP. BEA MCCARTHY		✓
REP. SCOTT MCCULLOCH		✓
REP. RICHARD SIMPKINS	✓	
REP. BARRY "SPOOK" STANG	✓	
REP. NORM WALLIN		✓
REP. DIANA WYATT		✓
TOTAL	8	12

EXHIBIT #21
DATE 1-25-91
HB 105

HOUSE OF REPRESENTATIVES

EDUCATION AND CULTURAL RESOURCES COMMITTEE

ROLL CALL VOTE

DATE 1-25-91 BILL NO. 105 NUMBER _____

MOTION: Rep. Harrington moved HB 105
Do Pass As Amended. Motion Carried.
13 aye, 7 no

NAME	AYE	NO
REP. TED SCHYE, CHAIRMAN		✓
REP. ERVIN DAVIS, VICE-CHAIRMAN		✓
REP. STEVE BENEDICT	✓	
REP. ERNEST BERGSAGEL	✓	
REP. ROBERT CLARK	✓	
REP. VICKI COCCHIARELLA	✓	
REP. FRED "FRITZ" DAILY		✓
REP. ALVIN ELLIS, JR.	✓	
REP. GARY FELAND	✓	
REP. GARY FORRESTER	✓	
REP. FLOYD "BOB" GERVAIS		✓
REP. H.S. "SONNY" HANSON	✓	
REP. DAN HARRINGTON		✓
REP. TOM KILPATRICK	✓	
REP. BEA MCCARTHY	✓	
REP. SCOTT MCCULLOCH	✓	
REP. RICHARD SIMPKINS		✓
REP. BARRY "SPOOK" STANG		✓
REP. NORM WALLIN	✓	
REP. DIANA WYATT	✓	
TOTAL	13	7

Belgrade Public Schools

EXHIBIT #22
DATE 1-25-91
HB 105

School District No. 44

HARRY D. ERICKSON, Superintendent
YVONNE CUTLER, District Clerk

PAT KRAMARICH, High School Principal - 388-4224
PHILLIP TURCK, Assistant High School Principal
JERRY VANDERPAN, Middle School Principal - 388-1309
CHERYL JOHANNES, Elementary Principal - 388-4104
JEFFREY LOSETT, Elementary Principal - 388-4215
CATHERINE BOTTOMLY, Special Services Director - 388-6951

Phone: (406) 388 - 6951
Mail Address: P.O. Box 166
Belgrade, Montana 59714

January 21, 1991

Representative Ted Schye, Chairman
House Committee on Education and Cultural Resources
Room 104
State Capitol
Helena, Montana 59620

Dear Representative Schye:

Just a few comments regarding House Bill 105:

Although principals have been identified as the most essential link in American Education in effecting positive change for our children in their individual schools, we are faced with a bill, which although well intentioned, is driving a wedge between teachers and principals and could have a negative effect on the teamwork which has made our Montana Schools outstanding.

Economic tenure for both teachers and principal teachers has been one of the links which has made for continuity and trust in this most important relationship. A relationship which has worked well for probably fifty years and is now threatened because a few schools have experienced some problems in this area.

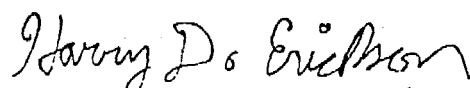
Putting a principal back in the classroom at teachers pay when that person may have been a loyal, effective member of the school and community for twenty or twenty-five years is contrary to the philosophy of fair play.

If that is fair, it would also be fair to put a teacher in a teacher's aide position and pay them teacher's aide salary. I think either would be a miscarriage of justice and a giant step backward for education.

Please consider these items and not the number of people who testify or the length of the line on one side of the bill or the other.

Let the time tested partnership between teachers and principal-teachers continue to serve Montana's children. Leave this law remain as is.....it has worked well!!

Respectfully submitted,



Harry D. Erickson, Superintendent
Belgrade Schools

cc: All committee members



BELGRADE SCHOOL DISTRICT #44

Quaw Elementary School Belgrade, Montana 59714
91 Southview, P.O. Box 166 Phone: (406) 388-4215



Jeffrey C. Losett
Principal

Bea Griffis
Administrative Assistant

EXHIBIT #23

DATE 1-25-91

HB 105

January 21, 1991

Representative Ted Schye, Chairman
House Committee on Education and Cultural Resources
State Capitol - Room 104
Helena, MT 59620

Dear Representative Schye:

With the committee hearing on HB 105 approaching, I would like to take this opportunity to express my concerns with its contents.

School administrators, just as teachers, are presently protected by certain property rights including tenure, seniority and salary status.

When a person accepts a position with pay increase, his or her economic decisions are very much tied into the expected salary. This would be similar for a teacher or administrator.

If, for some reason, the local school board felt it needed to reassign an administrator into a teaching position, the seniority, tenure and salary status should be left in tact. Negating any of these categories would in a sense be penalizing the individual unnecessarily.

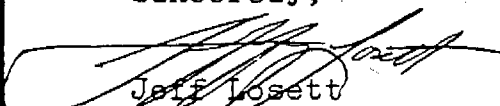
If, for some reason, a local school board opted to reassign a teacher to the position of a classroom aide, would he or she also lose tenure status, seniority, salary and collective bargaining rights. I would envision this as not being the case.

I would ask that you look seriously at the bill's intent and base decisions on the existing property rights of administrators. I feel we should enjoy the same protection as would a teacher in a similar situation.

During your committee hearing, please look at this bill closely and work to protect the rights of educators. As presently worded I would urge you to VOTE AGAINST HB 105. It is a step backwards in education.

Thank you for taking the time to listen.

Sincerely,


Jeff Losett

cc: All committee members

REP. SIMPKINS said the Montana Constitution is not being abided by in our educational attempts and the Board of Education has never functioned in accordance with the Constitution. The Legislature has reassigned a constitutional duty specifically stated in the Constitution to another agency. This does not strip the Superintendent of Public Instruction of any duties.

REP. BENEDICT agreed he did not see where it would take any power or duties from the Superintendent.

REP. HARRINGTON said it definitely does so by taking away the general supervision of the schools.

Motion: REP. COCCHIARELLA made a substitute motion that HB 253 DO NOT PASS.

Motion/Vote: REP. DAILY made a substitute motion that HB 253 BE TABLED. Motion FAILED 9 to 11. EXHIBIT 7

Motion/Vote: REP. COCCHIARELLA moved HB 253 DO NOT PASS. Motion CARRIED 12 to 8. EXHIBIT 8

EXECUTIVE ACTION ON HB 105

Motion: REP. MCCULLOCH moved HB 105 DO PASS.

Discussion: Discussion followed on proposed amendments, Second Reading Copy since HB 105 was re-referred to committee. EXHIBIT 9

Motion/Vote: REP. MCCULLOCH moved to amend to HB 105. EXHIBIT 10. Motion CARRIED unanimously.

Vote: REP. MCCULLOCH made a substitute motion that HB 105 DO PASS AS AMENDED. Motion CARRIED 15 to 5. EXHIBIT 11

ADJOURNMENT

Adjournment: 5:00 p.m.



TED SCHYE, Chair



DIANNE MCKITTRICK, Secretary

TS/dMcK

HOUSE OF REPRESENTATIVES

EDUCATION AND CULTURAL RESOURCES COMMITTEE

ROLL CALL

DATE 1-30-91

NAME	PRESENT	ABSENT	EXCUSED
REP. TED SCHYE, CHAIRMAN	✓		
REP. ERVIN DAVIS, VICE-CHAIRMAN	✓		
REP. STEVE BENEDICT	✓		
REP. ERNEST BERGSAGEL	✓		
REP. ROBERT CLARK	✓		
REP. VICKI COCCHIARELLA	✓		
REP. FRED "FRITZ" DAILY	✓		
REP. ALVIN ELLIS, JR.	✓		
REP. GARY FELAND	✓		
REP. GARY FORRESTER	✓		
REP. FLOYD "BOB" GERVAIS	✓		
REP. H.S. "SONNY" HANSON	✓		
REP. DAN HARRINGTON	✓		
REP. TOM KILPATRICK	✓		
REP. BEA MCCARTHY	✓		
REP. SCOTT MCCULLOCH	✓		
REP. RICHARD SIMPKINS	✓		
REP. BARRY "SPOOK" STANG	✓		
REP. NORM WALLIN	✓		
REP. DIANA WYATT	✓		

HOUSE STANDING COMMITTEE REPORT

January 31, 1991

Page 1 of 1

Mr. Speaker: We, the committee on Education and Cultural Resources report that House Bill 105 (second reading copy -- yellow) do pass as amended.

Signed: Ted Schye, Chairman

And, that such amendments read:

1. Page 3, lines 16 and 17.

Strike: "WERE BASED ON GOOD CAUSE"

Insert: "were in compliance with the provisions of subsection (1)"

2. Page 3, line 25.

Strike: "BASED ON GOOD CAUSE"

Insert: "in compliance with the provisions of subsection (1)"

EXHIBIT

DATE 1-30-91

HB 105

APPROVED BY COMM. ON EDUCATION
AND CULTURAL RESOURCES

HOUSE BILL NO. 105
INTRODUCED BY L. NELSON

A BILL FOR AN ACT ENTITLED: "AN ACT TO PROVIDE FOR TRANSFER
OF A TENURE TEACHER BETWEEN ADMINISTRATIVE AND TEACHING
POSITIONS; AND AMENDING SECTION 20-4-203, MCA; AND PROVIDING
AN APPLICABILITY DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 20-4-203, MCA, is amended to read:

"20-4-203. Teacher tenure. (1) Whenever Except as
provided in [section 2], whenever a teacher has been elected
by the offer and acceptance of a contract for the fourth
consecutive year of employment by a district in a position
requiring teacher certification except as a district
superintendent or specialist, the teacher is considered to
be reelected from year to year thereafter as a tenure
teacher at the same salary and in the same or a comparable
position of employment as that provided by the last executed
contract with the teacher unless the trustees resolve by
majority vote of their membership to terminate the services
of the teacher in accordance with the provisions of
20-4-204.

(2) The tenure of a teacher with a district may not be
impaired upon termination of services of the teacher if the

following conditions exist:

(a) the tenure teacher is terminated because the
financial condition of the district requires a reduction in
the number of teachers employed; and

(b) continued employment rights are provided for in a
collectively bargained contract of the district."

NEW SECTION. Section 2. Transfer from administrative

position. (1) A tenure teacher serving in an administrative
position may be assigned to a teaching position with a
reduction in salary when the economic conditions of the
district require a reduction of administrative staff. The
salary for the new position must be the same as or more than
the salary that the teacher would have received if the
teacher had been continuously employed in the new position
rather than in the administrative position.

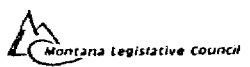
(2) As used in this section, the term:

(a) "administrative position" means a position that the
trustees of a district designate as administrative or
supervisory in nature, not including the position of
district superintendent; and

(b) "reduction of administrative staff" is limited to
reductions necessary because of declining enrollment or
financial exigency.

(3) When a tenure teacher serving in an administrative
position is to be transferred under this section, the

SECOND READING



teacher must be notified prior to May 1 by certified letter or by personal notification for which a signed receipt must be obtained. The notification must include:

(a) a statement of the reason or reasons for the reduction of administrative staff; and

(b) a printed copy of this section for the teacher's information.

(4) A tenure teacher who receives notice under subsection (3) may request in writing, within 10 days of the notice, a hearing before the board of trustees. The board of trustees shall set the hearing not less than 10 days or more than 20 days from receipt of the request unless both parties agree to an extension. If a hearing is requested, the trustees shall:

(a) conduct the hearing to determine whether the reason or reasons for the transfer ~~are arbitrary or capricious~~ WERE BASED ON GOOD CAUSE; and

(b) resolve at the end of the hearing to uphold the transfer or to reject the transfer and return the teacher to the administrative position.

(5) A tenure teacher may appeal a decision under this section to the county superintendent as provided in 20-3-210. The county superintendent shall conduct a hearing to determine whether the reason or reasons for the transfer ~~were arbitrary or capricious~~ WERE BASED ON GOOD CAUSE.

(6) The teacher or the trustees may appeal the determination of the county superintendent to the superintendent of public instruction as provided in 20-3-107.

(7) A tenure teacher who is transferred to a teaching position under this section must be offered the next comparable administrative position for which he is endorsed that becomes available in the district.

NEW SECTION. Section 3. Codification instruction.
[Section 2] is intended to be codified as an integral part of Title 20, and the provisions of Title 20 apply to [section 2].

NEW SECTION. SECTION 4. APPLICABILITY. [THIS ACT] DOES NOT APPLY TO A PERSON WHO WAS EMPLOYED IN AN ADMINISTRATIVE POSITION BEFORE OCTOBER 1, 1991.

-End-

Amendments to HB Bill No. 105
2nd Reading Copy

Requested by House Committee on Education
For the Committee on

Prepared by Andrea Merrill
January 30, 1991

1. Page 3, lines 16 and 17.

Strike: "WERE BASED ON GOOD CAUSE"

Insert: "were in compliance with the provisions of subsection
(1)"

2. Page 3, line 25.

Strike: "BASED ON GOOD CAUSE"

Insert: "in compliance with the provisions of subsection (1)"

EXHIBIT # 11
DATE 1-30-91
HB 105

HOUSE OF REPRESENTATIVES

EDUCATION AND CULTURAL RESOURCES COMMITTEE

ROLL CALL VOTE

DATE 1-30-91 BILL NO. 105 NUMBER

MOTION: Motion by Rep. McCulloch
Do Pass As Amended

NAME	AYE	NO
REP. TED SCHYE, CHAIRMAN	✓	
REP. ERVIN DAVIS, VICE-CHAIRMAN		✓
REP. STEVE BENEDICT	✓	
REP. ERNEST BERGSAGEL	✓	
REP. ROBERT CLARK	✓	
REP. VICKI COCCHIARELLA	✓	
REP. FRED "FRITZ" DAILY		✓
REP. ALVIN ELLIS, JR.	✓	
REP. GARY FELAND	✓	
REP. GARY FORRESTER	✓	
REP. FLOYD "BOB" GERVAIS	✓	
REP. H.S. "SONNY" HANSON	✓	
REP. DAN HARRINGTON		✓
REP. TOM KILPATRICK	✓	
REP. BEA MCCARTHY	✓	
REP. SCOTT MCCULLOCH	✓	
REP. RICHARD SIMPKINS		✓
REP. BARRY "SPOOK" STANG		✓
REP. NORM WALLIN	✓	
REP. DIANA WYATT	✓	
TOTAL	15	5

would have two choices: (1) Look for another administrative position; or (2) take a teaching job within the system. The teaching position could either be an open position or this person could "bump" a non-tenure teacher.

Here is the problem: Current law states that a tenure teacher will receive the same salary from year to year--that they will not have to take a cut. The tenured administrative person is considered a tenure teacher so now the school board finds that they must pay \$10 - 20,000 more per year for the administrator than the teacher he is replacing. Not judicious use of the taxpayers' money and not fair to other teachers on staff who may be doing the same work for far less pay.

This bill allows the administrative person to take the teaching position from all of his years as tenure and to fit into the salary schedule of his school system as though he had been teaching all along. It may not be kind from the administrative person's standpoint but it makes sense. Other teachers will not be resentful, taxpayers will still support the levy and the administrative person will still have a salaried position.

The committee amended bill to include grandfather clause. Current administrators will not be covered under this bill so they will remain just as they are. Representative Nelson said that while she was not real satisfied with the amendment, she thought that this is a good bill and said that if this is what it takes to move the bill forward, then she accepted the amendment.

She said that in the future if someone is going into an administrative position, they might as well know up front that they will be paid as an administrator but if they go into a teaching position, they will paid a teacher's salary. There is a difference.

Proponents Testimony:

REPRESENTATIVE BERV KIMBERLEY, House District 90, testified in support of HB 105.

He does not feel that the bill is vindictive toward administrators and he would not support the bill without the grandfather clause amendment.

He said that he felt a person should get paid for the job he does and in the school business if you take on any additional responsibility, you usually get compensated for it. You get a stipend. But when you no longer have that responsibility, you give up that stipend and teachers accept that. If an administrator is teaching, that person should receive a classroom teacher's salary.

BRUCE MOERER, Montana School Board Association.

feels much imitation work is inferior and doesn't meet standards of Indian workmanship. Many Indians have given up doing their native beadwork/crafts because of competition/low prices.

Proponents' Testimony:

JACKIE PARSONS, Director, Northern Plains Indian Crafts Association. (In office 18 years). All of their items for sale except books and cards must be made by an Indian.

Ms. Parsons praised Indian art and the place it holds in state's history/natural resources. Said the seven Montana Indian tribes look to the legislature and the state for protection. This bill, long overdue, will force retailers to separate and mark authentic hand produced Indian arts and crafts from other products made by non-Indian people--products she described as being inferior, factory-made copies of Indian products. She said authentic Indian crafts are hand made, unique and beautiful; handed down from many generations. Indian artists should not have to compete with foreign factories. There has been no effort to protect Indian arts and crafts. Urged committee's support.

Other speakers in support of HB 348:

NICHOLAS VROOMAN, Montana Arts Council
GLORIA HERMANAN, Montana Cultural Advocacy

There were no opponents to HB 348.

Questions From Committee Members:

SENATOR PINSONEAULT asked if each Indian tribe represents different types of art and if items can be distinguished one from another. Ms. Parsons answered yes to both questions.

Closing by Sponsor:

REPRESENTATIVE GERVAIS emphasized that HB 348 is not written to stop the sale of non-authentic Indian articles but rather that these products be identified as being imitation Indian products. He said other states have this law to protect their authentic Indian arts/crafts. He thanked the committee and those who testified supporting HB 348. Urged committee support for HB 348.

HEARING ON HB 105

Presentation and Opening Statement by Sponsor:

REPRESENTATIVE LINDA NELSON, House District 19, presented HB 105. which provides for transfer of tenure teacher between teaching and administration.

Many Montana schools are facing tough financial times because of declining enrollment/decreasing caps. Somewhere along the line school boards have to make some hard choices to make the best use of their tax dollars which might involve eliminating an administrative position. This tenured administrative person

Current Supreme Court interpretation of the tenure law requires a school district to continue paying an administrator the salary he was receiving as an administrator if that person goes into a classroom teaching position. Also, the administrator must be offered the next open administrative position for which he is qualified. (Supreme Court ruling involving Billings School District case, 1983). Exhibits 1, 2.

Further Proponents testifying in support of HB 105:

REPRESENTATIVE WILBUR SPRING, House District 77.

DEBRA M. KEHR, Helena School Trustees

STEVE HENRY, MEA

DENNIS CARLSON, Huntley Project EA

JERRY RUKAVIANI, Great Falls

WANDA GRINDE, Canyon Creek EA

TRISHA McMORRIS, Glasgow EA

KYLE BOYCE, Missoula CHSE

BOBBIE ANTONSON, Billings EA

Opponents testimony:

LORAN FRAZIER, School Associations of Montana.

Speaker said that HB 105 unfairly penalizes administrators who are usually on a 10-11 month salary contract. It causes an economic hardship. The bill needs to be further defined. Felt it might encourage school boards to restructure when it was not necessary.

Other proponents:

DARRELL RUDE, SAM

GREG GEOFF, MAEMSP

JO SWAIN, BAESP

Questions from committee members:

SENATOR WATERMAN to Bruce Moerer for a definition of tenure. Bruce Moerer answered saying tenure is acquired in fourth consecutive teaching contract with that district. Tenure protects the teacher or administrator basically in two ways: Law says that salary can't be reduced and there has to be same comparable position. Supreme Court said that teaching is a comparable position to administration for purposes of tenure protection. You can assign them as a teacher but you can't reduce the salary received as an administrator.

Question: Cite an instance when you could reduce economic tenure for a teacher. Answer: Could not be done unless there was a reduction in force.

Question: Define what the bill means when it says "when economic conditions of a district require a reduction in administrative

staff".

Answer: Teachers might say that they need more salary and cut expenditures in other areas such as repair, remodeling, textbooks, etc., There is always that area where the trustees have authority under law to make those judgements as to what has to come out of the budget and what stays and this continues to give the trustees that authority to make those decisions. If their decision is to reduce administrative staff instead of reducing teaching staff, they still have that authority. No specific definition. Restructuring decisions would be made by the school board. He said that larger districts with central office administrative staff are going to be able to make use of this much more than districts with a principal in each building but no central administrative staff.

Question: If the district does not have a contract that guarantees that administrator seniority and they're restructuring because of decline in enrollment, they may be eliminating some positions for administrators and teachers so there is a probability that the administrator is going to go to the bottom of the teaching seniority list and would be the first to go even though they have tenure.

Answer: That is correct and that would happen now if there is a decline of 10 percent in enrollment, you cut 10 percent of administration and teachers, at this time the administrators would go to the bottom of the seniority list and could be terminated without this bill.

Question: Will it take three years to get through the tenure process so this bill could be applicable? How many instances of this are there in this state?

Answer: That is correct that it would take three years but this bill is a start. He didn't think that there were very many instances of this in this state and one reason is because this bill doesn't exist.

SENATOR PINSONEAULT asked if HB 105 is comparable to other state legislation.

Bruce Moerer said that he had not researched other states on this. Some states don't give tenure to administrators at all and some have a separate tenure protection for administrators.

SENATOR HAMMOND said that he thinks administrators are often moved into the classroom and are not given an opportunity to go back into an administrator's position even when one is available.

Bruce Moerer said if that happens, it is against Supreme Court ruling and the teacher should take the matter to court. Under the ruling, a former administrator must be given preference for the next administrative opening and this bill keeps that

protection.

SENATOR FRITZ asked Darrell Rude asked if he knew of any teachers that make more money than administrators. Mr. Rude said yes that there are teachers that make more money per day than administrators. Senator Fritz then asked why a school would identify good teachers and encourage them to become administrators. Why would a valuable teacher be taken from the classroom and encouraged to become an administrator.

Mr. Rude said administrators want good people to follow. He said that they had been excellent teachers and as we turn over these people into the next century, we want excellent people to replace us. We know that those people will be the next leaders. We don't want to recruit the poor teachers. A classroom teacher might make a positive impact on 20-30 students while an administrator could make a positive impact on hundreds of students.

SENATOR PINSONEAULT said that he did not agree that a good teacher makes a good administrator and cited instances.

CHAIRMAN BLAYLOCK quoted the handout as saying, "HB 105 does not allow an administrator to be assigned to the classroom instead of being terminated if the district is not satisfied with the administrator's performance". Do we assume that in this case the board making this decision is telling the truth. Could they be moved into a classroom situation for other reasons other than economic.

BRUCE MOERER said that there is always the opportunity for abuse of any system by anybody who insists upon doing it. If someone did that, they would have to close the administrative positions.

Mr. Moerer said when we advise people on how to do a reduction in force, we say that the first thing you do is budget work to determine priorities. Get rid of programs and positions first; then determine who the people are because there will be lateral moves, "bumping" depending on certification.

Closing by sponsor:

REPRESENTATIVE NELSON thanked all of the people who came whether they were proponents or opponents and members of committee for a good hearing. She said that it was a very emotional issue and she had utmost respect for all concerned. As a school board member, she said that she had made decisions that didn't make her feel good but school boards are not there to provide financial security. The bottom line of this bill is accountability to the taxpayer in providing the best use of tax dollars to educate students.

All this bill really addresses is whether or not an administrator

in a teaching position should be paid a teacher's salary or an administrator's salary. The salary is the issue in HB 105. Salary cuts are not unique in Montana and taxpayers have the right to judicious use of their tax dollars. To defeat this bill is to do nothing.

HEARING ON HB 462

Presentation and Opening Statement by Sponsor:

REPRESENTATIVE RAY PECK, House District 15, revising calculation of ANB for certain schools of a district. The sponsor said that this bill was put into law three sessions ago. OPI started to implement this bill and the attorney general said that the language of the bill was not in keeping with intent. (Page 3, Line 23). The average number of regular and full time pupils must be based on the aggregate of all regular enrolled full time pupils attending the schools in the district except that when a school of a district is located more than three miles beyond the incorporated limits of a city or town or from another school of the district.

That created a situation that if you had a three mile separation of school within a city boundary, you operated and made your budget based on two units. For example, if you had 200 students in those two schools, you would get about \$343,800 in one school. If you had them in two different buildings, you would get an additional \$35,800 because of the difference on the schedules. Pupils calculated separately. The smaller the unit, the higher the rate. Budget of some schools would be increased. I know it is difficult for some of the schools that have been hit but, in fairness, it seems that the legislation does make sense.

In reference to the school districts that are going to be hit by this, the amendment allows for a five year phase out.

Sponsor said that he was not particularly happy with amendment but said if the funds will be cut, it is better than losing them all at once. Also spoke of the three mile limitation; that it is not a great distance to be considered. Trying to create a level playing field in terms of funding and fairness to schools.

Proponents' Testimony:

JIM SMITH, Superintendent of Schools, Consolidated District of Rudyard and Hinman.

Gave chart committee which explains their situation (Exhibit 3). They are six communities/school systems within communities of Havre and Chester. Now three consolidated school districts within range of 70 miles. Our district is in center; one on either side and we have made some real difficult financial choices closing one building five years ago and making other changes.

Bruce Moerer
General Counsel



Administration to the classroom"

Legal Corner

Although it is permissible to assign administrators to a classroom teaching position, it may not be advisable under the current laws and the Montana Supreme Court's interpretation of those laws.

What the Supreme Court has said is that, if a district determines that it must RIF (reduction in force) an administrative position, a tenured administrator with proper experience or qualifications, can bump a tenured teacher. Massev v. Argenbright, 1, 683 P.2d 1332, 3 St.Rptr of Ed Law (1984). The Court has further stated that when this happens, the teacher (former administrator) is entitled to be paid the administrative salary, plus future increases owed to administrators in the district, and entitled to the next administrative opening if he or she is qualified. Sortie v. School District No. 2, 667 P.2d 400, 2 St.Rptr of Ed. v 145 (1983).

In analyzing the situation, one must understand that administrators (except the superintendent) fall under the definition of teacher."

"Teacher" means any person, except a district superintendent, who holds a valid Montana teacher certificate that has been issued by the superintendent of public instruction under the provisions of this title and the policies adopted by the board of public education and who is employed by the district as a member of its instructional, supervisory, or administrative staff. This definition of a teacher shall also include

any person for whom an emergency authorization of employment of such person has been issued under the provisions of 20-4-111, MCA." Section 20-1-101(18), MCA.

Therefore, administrators can obtain tenure under the teacher tenure law, just like a classroom teacher can.

Section 20-4-203, MCA provides that: "(1) Whenever a teacher has been elected by the offer and acceptance of a contract for the fourth consecutive year of employment by a district in a position requiring teacher certification except as a district superintendent or specialist, the teacher is considered to be reelected from year to year thereafter as a tenure teacher at the same salary and in the same or a comparable position of employment as that provided by the last executed contract with the teacher unless the trustees resolve by majority vote of their membership to terminate the services of the teacher in accordance with the provisions of 20-4-204.

(2) The tenure of a teacher with a district may not be impaired upon termination of services of the teacher if the following conditions exist:

(a) the tenure teacher is terminated because the financial condition of the district requires a reduction in the number of teachers employed; and

(b) continued employment rights are provided for in a collectively bargained contract of the district."

In fact, there is no difference between

tenure for administrators and teachers. There is also no difference among administrators, be they building principals or central office administrators. Upon the signing of their fourth consecutive contract with the district, "teachers" obtain tenure, regardless of whether they were classroom teachers or administrators before or after obtaining tenure. Teachers retain tenure until their employment is terminated, unless they are recalled pursuant to the terms of a collective bargaining agreement.

Let's look at the numbers...

What does this do to a school district that needs to RIF an administrative position because of a loss of enrollment or financial problems? Assume the tenured administrator makes \$40,000. Assume the administrator bumps a nontenured teacher who makes \$16,000. The salary savings realized by the district is only \$16,000 since the administrator must still be paid \$40,000. In addition, morale problems become serious when one teacher makes substantially more than another for doing the same job. Finally, the former administrator is also paid in violation of the salary schedule of the collective bargaining agreement. With all of these problems facing the district, it may not be worth only \$16,000 to eliminate the administrative position.

A second practical effect is evident when a district goes to fill an administrative opening. A district has more incentive to hire from outside the district to avoid putting a tenured teacher in that position. The district then has three nontenure years to evaluate the person's job performance as an administrator. Additionally, in the event of an RIF during those first three years, the person can be assigned to the classroom at a classroom teacher's salary because they have not yet obtained tenure.

The Montana School Boards Association
(continued on page 6)

Exhibit 1
3/2/89
HB 105

Administration to the classroom

(continued from page 4)

tion is preparing legislation to allow a tenured administrator to be assigned to the classroom at a classroom teacher's salary. This will avoid the problems discussed above. If we assume the administrator will make \$26,000 at the correct place on the salary schedule, the district would save \$30,000 instead of \$16,000. Other classroom teachers would then be more receptive to the situation since the pay would be equitable and the salary would not be in conflict with the collective bargaining agreement. This change in the law would give districts a more viable option in administrative assignments.

Obviously, administrators are opposed to this (they take a cut in pay), but one needs to carefully evaluate their stated objections. One fear they have is that the law will be circumvented and poor administrators will be assigned to the classroom instead of

terminated for cause. They say that somehow they will lose their due process rights to appeal the school board's decision. This cannot happen, because such an assignment would be appealed to the county superintendent as a school controversy under Section 20-3-201, MCA, and a hearing would be held. If a district should attempt to circumvent the law, they would be caught by the appeal process.

Another fear is that under the proposed law, administrators who are put back in the classroom will lose their seniority under the collective bargaining contract, and will be the first teachers laid off in an RIF. That may happen, but the proposed law does not cause this. This happens now. Right now an administrator can be assigned to the classroom. Right now some teacher collective bargaining agreements require tenured teachers with the least seniority to be laid

off first. Some of these agreements do not allow seniority for years of service as an administrator. Therefore, under the current law, an administrator may be the first tenured teacher laid off. This is a fact of life now, and would continue to be a fact of life if the proposed law is enacted by the legislature.

Even though legislative decisions are public policy decisions, they must be based on a correct understanding of the law. School trustees are responsible for running the school district in a fiscally sound manner. The present law decreases the options available to trustees in cases where administrative positions need to be reduced. The legislature must decide, as a matter of public policy, how many options are available to school trustees in these tight economic times.

Exhibit 1-A

3/8/91

HB 105



One South Montana Ave.
Helena, Montana 59601
Telephone: 406/442-2180
FAX 406/442-2194

Robert L. Anderson, Executive Director

—MONTANA SCHOOL BOARDS ASSOCIATION—

Ex. 2
3/2/91
HB 105

TO: Representative Linda Nelson
FROM: Bruce W. Moerer, MSBA
DATE: February 1, 1991
RE: Fact Sheet on HB 105 as amended

A. Problem:

Current law requires a school district to continue to pay a former administrator who is transferred to the classroom for economic reasons at the higher administrative salary level, give them continuing administrative increases, and give them the next administrative position for which they are qualified.

B. Reason: Definition of Tenure:

1. Administrators (except Superintendents) gain tenure just like classroom teachers by the offer and acceptance of their fourth consecutive contract (prior years can be either teaching or administrative positions).
§ 20-4-203, MCA.
2. Tenure prohibits salary reductions.
3. A tenured teacher (or administrator) can bump a nontenured teacher if his/her position is eliminated and he/she is endorsed to teach the subject being taught by the nontenured teacher.

C. HB 105 Solution:

Allows a school district to transfer an administrator to a classroom teaching position at a classroom teacher's salary if economic conditions of the district require a reduction in administrative staff.

The amendment grandfathers in employees currently receiving administrative salaries. Only new administrators will be affected.

D. HB 105 does:

1. provide due process protection for the administrator.

Exhibit 2.

DATE 3-08-91

COMMITTEE ON

Education

VISITORS' REGISTER

NAME	REPRESENTING	BILL #	Check One	
			Support	Oppose
Maemillan 50+19/HO 38 15th Ave S. Great Falls	Great Falls Educ. Assoc Montana Educ Assoc	HB#105	X	
Mr Stratton W-9th Laurel	Laurel Education Assoc	105	X	
Mcete Belm 226 Laurmac La Laurel	Laurel Education Assoc.	HB 105	X	
ebra Wenger 3rd St. S.E. Cut Bank	Cut Bank Education Assoc. MEA	105	X	
Haror Harris 20 Old Harder Rd Billings	Lockwood Education Association	HB 105	X	
Laurel Ruel	MAEMSP & SAM	HB105		X
Greg Cest	MAEMSP	HB105		X
John Wain	BAESP	HB105		X
Loran Frazer	SAM	N.B.65		X
Nigin McKinnis	Glasgow Ed Assoc			
Steve Henry	MEA	HB105	X	
Janda Grinde	Canyon Creek EA	HB105	✓	
Ali W Eve	Miles City Ed Assn	HB105	✓	
Steve Gault	Chndro Schools # 71	HB462	✓	
Ami A. Fulmer	Lofo Schools # 7	HB462	✓	
Red Olson	Reed Point School Dist. 99	HB462	✓	
Bobbie Anterson	Billings Education Assoc.	HB105	✓	
Dennis Carlson	Huntly Project Educ	105	✓	
B.L. Dickerson	Great Falls Ed Assoc	105	✓	
Larry Love	" " " "	"	✓	
Patricia Link	Billings Ed. Assoc.	105	✓	
Bruce W. Greer	BSHA	462 105	✓	
Mike Boyer	Mission La. High School Ed Assn	HB105	✓	
Jacki Lamb Marvin	MSLA Elem. Ed.	HB105	✓	
Kathleen Harrington	Certification Advisory Council	HB431	✓	
Wayne Buchanan	BPIE	431	✓	

(Signed statement with Secretary)

[illegible]

EXECUTIVE ACTION ON HB 105Discussion:

There was discussion between Senators Hammond, Brown and Pinsoneault, Chip Erdman and Eric Feaver regarding HB 105 and the Supreme Court ruling and how it applied to HB 105.

ERIC FEAVER said that his understanding of the Supreme Court ruling is that "if you were a \$40,000 a year administrator and you returned to the classroom, you would receive \$40,000 a year as a classroom teacher; teacher salary would catch up. There would be no administrative increases while you waited for the teacher's salary to catch up. This is how it has been applied; maybe some school districts that continued to pay an administrative salary increase--that's their option. There are examples. We never had one that was contested.

CHAIRMAN BLAYLOCK asked Loren Frazier if he had further testimony. Mr. Frazier said that he thought the biggest fear for educators is that the negotiated agreements that are in the district do not promote security. He said that Bruce (Moerer) assures me that if you have 17 years of a principalship, you can go in at 17 years on a teacher's salary. But if you were a principal for 17 years in one town and moved to another and took a first year position, do you have tenure in that district to move down with the teachers or are you just going for one year?

SENATOR HAMMOND said that the bill states that a RIF'd administrator will be given first opportunity to take another position that comes open. Frazier: Yes, it does but if it is a in Havre where the non-tenured teachers are leaving, that principal could leave that district and not have a right to that position.

SENATOR HAMMOND said that this could be better than the current law because at this time administrators in teaching positions are not always offered administrative positions that come open. Mr. Frazier said that is often the fault of the administration because they apparently have transferred that administrator to a teaching position when there should have been an evaluation and/or termination rather than a transfer but the administration did not have the courage to take that step.

SENATOR WATERMAN also discussed this, saying that she assumed the reason they didn't rehire that administrator was because they didn't want him/her back which says the administration didn't have the courage to make a decision about evaluation. Trustees/administrators don't adequately evaluate and instead of making a decision about evaluation, they might move the administrator into a teaching position even though they know he/she is not a good teacher because they can't evaluate. Senator Waterman said we won't save \$50,000 in this state in the

next decade with this bill and it won't solve any problems. What we need is evaluation of administrators/training programs.

Senator Hammond said that there have been cases when administrators were hired who had not taught. There is a requirement now that they have to have teaching experience.

SENATOR PINSONEAULT said that there are people who are very good teachers and good with kids but do not make good administrators because they cannot supervise other adults (teachers).

Vote:

SENATOR PINSONEAULT made a motion of DO CONCUR HB 105. 7 -aye; 1 - no. (Waterman) MOTION CARRIED. Senator Blaylock - carrier.

EXECUTIVE ACTION ON HB 348

Discussion:

SENATOR YELLOWTAIL said there is a large amount of foreign made jewelry/craft work being sold in Montana/national parks as authentic Indian jewelry. Tourists usually don't the difference. It not only is disappointing to the Indian people and hurts their economy but it is quite unfair to the tourist who pays a good price for something not authentic.

Motion and vote:

SENATOR BROWN made a motion DO CONCUR HB 348. Motion carried. Senator Yellowtail - carrier.

EXECUTIVE ACTION ON HB 431

Discussion:

CHAIRMAN BLAYLOCK said that he had a request to hold HB 431 for a standing committee report.

Amendments, discussion and vote:

Amendments to HB 431 (Eddye McClure, Legislative council) proposed for bill.

CHAIRMAN BLAYLOCK read a note from Representative Peck who said that "Representative Bardanouve amended out statutory provisions on HB 431. I now have him agreeable to making all \$6.00 go into the State Special Revenue account and one to the General Fund instead of \$3.00 to the General Fund. This is (Representative) Schye's bill and he has been informed about it so I assume he will propose the amendment. Just wanted you to know that 'Bard' will not resist the amendment. (Signed: Ray Peck)".

SENATOR WATERMAN asked if these amendments refer to the total